



***Substitute House Bill No. 5567***

***Public Act No. 06-41***

***AN ACT CONCERNING THE SEIZURE OF MILK PRODUCTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 22-129 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

The Commissioner of Agriculture or [his deputy] the commissioner's duly authorized agent shall prohibit the sale or offering for sale or distribution of any cheese, milk or other milk product which is insanitary or detrimental to health, and which has not been produced, processed, cared for or handled in the manner prescribed in this chapter and in chapter 431 and by the regulations of the Milk Regulation Board.

Sec. 2. Section 22-129a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(a) The Commissioner of Agriculture or the commissioner's duly authorized agent may seize, destroy, dispose of or [quarantine] embargo any milk, [or] milk product or cheese that does not comply with the provisions of this chapter, chapter 431 or regulations adopted hereunder or pursuant to chapter 431 and is deemed to be unfit or unsafe for use as a food or is a threat to public health.

***Substitute House Bill No. 5567***

(b) Whenever the commissioner finds or has probable cause to believe that any milk, [or] milk product or cheese is adulterated, misbranded or deleterious to health, [he] the commissioner or the commissioner's duly authorized agent may affix to such milk, [or] milk product or cheese a tag or other appropriate marking, giving warning that such milk, [or] milk product or cheese is or is suspected of being adulterated or misbranded. No person shall remove or dispose of such milk, [or] milk product or cheese by sale or otherwise without the express permission of the commissioner or [his] the commissioner's duly authorized agent. [Before destruction or other disposition of perishable fluid milk or milk products, the commissioner shall conduct a hearing for the owner or custodian of such milk or milk product to show cause why such milk or milk product should not be destroyed or disposed of in a manner authorized by the commissioner. Notice of the hearing shall be in writing and shall be served upon the owner or custodian not less than forty-eight hours before such hearing.] Not later than twenty-four hours after such tagging or marking, the commissioner or the commissioner's duly authorized agent shall notify the owner or custodian of such milk, milk product or cheese of the commissioner's or the commissioner's agent's findings, or of any violations or proposed disposition and of the right to a hearing. Any person aggrieved by an order of the commissioner may request a hearing before the commissioner not more than five days after the issuance of such order. The hearing shall be conducted not [more] later than [ten] twenty days after the tagging or marking of any milk product or cheese and not [more] later than [three] ten days after the tagging or marking of any perishable fluid milk.

(c) Following such hearing the commissioner shall make a determination as to whether such milk, [or] milk product [is unsafe] or cheese complies with the provisions of this chapter, chapter 431 and any regulations adopted pursuant to this chapter or chapter 431 and is safe for use as a food. [or is detrimental to public health and] If the

***Substitute House Bill No. 5567***

commissioner determines the milk, milk product or cheese is unsafe or unfit for use as food, the commissioner may order the owner or custodian to destroy or dispose of such milk, [or] milk product or cheese. The commissioner or the commissioner's duly authorized agent shall supervise the destruction or other disposition of such milk, [or] milk product or cheese. If the commissioner finds the milk, milk product or cheese is safe for use as food and is not detrimental to public health, or can be properly packaged, marked or otherwise brought into compliance with the provisions of this chapter, chapter 431, or any regulations adopted pursuant to this chapter or chapter 431, the commissioner may order such milk, milk product or cheese to be so packaged, marked or otherwise brought into compliance and may thereafter authorize the release of such milk, milk product or cheese. The owner or custodian of such milk, [or] milk product or cheese shall pay the costs of storage, handling and other incidental expenses.

(d) A certificate of analysis from a laboratory of the Department of Public Health, the Agricultural Experiment Station, the United States Food and Drug Administration, the United States Department of Agriculture or The University of Connecticut Veterinary Medical Diagnostic Laboratory or other certified laboratory acceptable to the commissioner shall be considered prima facie evidence of the ingredients and constituents of a sample of milk, milk product or cheese.

~~[(d)]~~ (e) Any person aggrieved by the determination of the commissioner may appeal therefrom in accordance with the provisions of section 4-183.

~~[(e)]~~ (f) The commissioner shall not be liable for any damages caused by the seizure, embargo, destruction, tagging or marking of any milk, [or] milk products or cheese pursuant to this section unless a court finds there was no probable cause for such tagging or marking.

**Substitute House Bill No. 5567**

Sec. 3. Section 22-153 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(a) No person shall, by himself, his employee or agent, sell or exchange, or offer for sale or exchange, or have in his possession with intent to sell or exchange any milk which is misbranded or any milk, milk product or cheese diluted with water or adulterated by [the addition of] any foreign substance, or shall knowingly [deliver or offer for delivery milk that is tainted or partly sour to any customer buying the same for milk] sell, distribute, exchange or offer for sale any milk, milk product or cheese not produced in compliance with the provisions of this chapter or chapter 431.

(b) No municipality or subdivision thereof shall require a dealer to place on any bottle, container or label any words, designs or illustrations which are not approved, required or permitted by the Milk Regulation Board.

(c) Milk, milk products or cheese shall be deemed to be misbranded when [it is] they are not labeled with the name and address of the dealer, the common name of the product and any other labeling prescribed by the general statutes or the regulations of the Milk Regulation Board. The display or appearance of words, designs or illustrations on the label which are not so approved or prescribed shall also constitute misbranding.

[(d) The use of materials in the processing of flavored milks, or the addition of approved vitamin A and D units in the processing of milk, low-fat milk or other milk products, or the use of materials, vitamins or other substances in grades or types of milk having the approval of the Milk Regulation Board shall not constitute adulteration under this section.]

(d) No milk dealer licensed pursuant to section 22-229 shall accept

***Substitute House Bill No. 5567***

milk, milk products or cheese from any person, firm or corporation whose license or permit to produce, distribute or process milk, milk products or cheese is suspended or has been revoked.

(e) Any person who violates any provision of this section [shall] may be assessed a civil penalty in accordance with the provisions of section 22-7.

Approved May 8, 2006